

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
PANAMSAT CORPORATION
Application for Authority to Launch and
Operate a Replacement C/Ku Hybrid Fixed
Satellite Service Space Station at 58° W.L.
File No. SAT-LOA-19990812-00081

ORDER AND AUTHORIZATION

Adopted: July 5, 2000

Released: July 6, 2000

By the Chief, Satellite and Radiocommunication Division:

I. INTRODUCTION

1. By this Order, we grant PanAmSat Corporation authority to launch and operate the PAS-23 replacement satellite at the 58° W.L. orbit location. Grant of this application will permit PanAmSat to replace the PAS-9 satellite that is experiencing technical problems, thereby ensuring continuation of service to the public and increased service reliability.

II. BACKGROUND

2. PanAmSat requests authority to launch and operate its PAS-23 satellite at the 58° W.L orbit location previously assigned to the PAS-9 satellite. According to PanAmSat, replacement of PAS-9 is necessary because the battery cells, which provide power to the payload and spacecraft operations during eclipse periods, are defective. As a result, PanAmSat states that it has had to take a number of transponders out of service and therefore cannot provide adequate service from this location.

1 Pan American Licensee Corp., DA 97-1407 (released July 3, 1997).

2 In a letter dated June 26, 2000, PanAmSat elaborated on the nature of the technical problems that necessitate the replacement of PAS-9. Letter from Joseph A. Godles, Attorney for PanAmSat Licensee Corp. to Magalie Salas, Secretary, FCC (June 26, 2000). PanAmSat notes that eclipses occur during two 40-day periods centered around March 21 and September 21 and have durations ranging from 9 minutes to a maximum of 75 minutes per day.

3 PanAmSat notes that, despite PAS-9's deficiencies, it is evaluating options for a more limited use once it has been replaced at 58° W.L PanAmSat states that PAS-9 could serve as an in-orbit spare

3. PanAmSat states that PAS-23, like PAS-9, will operate in both C and Ku band frequencies. PAS-23 will receive communications in the 14.0-14.5 GHz and 5925-6425 MHz frequency bands and transmit in the 11.45-12.2 GHz and 3700-4200 MHz frequency bands. PAS-23 will provide video, audio and data services to satellite users in North, South, and Central America. PAS-23 is scheduled for launch in July 2000.

III. DISCUSSION

4. We find that PanAmSat is legally, financially, technically and otherwise qualified to launch and operate the PAS-23 satellite and that a grant of its application will serve the public interest.⁴ PanAmSat's legal qualifications are a matter of record and the Commission has on several occasions found that PanAmSat possesses the necessary legal qualifications to be a Commission licensee. With respect to financial qualifications, PanAmSat provided a balance sheet and income statements of its parent, Hughes Electronic Corporation ("HEC"), demonstrating adequate funds to finance the construction, launch, and operation for one year of PAS-23. HEC's balance sheet as of December 31, 1998 shows total current assets of \$3.8 billion which is more than adequate to cover PanAmSat's estimated cost of \$180 million to construct, launch, and operate PAS-23 for one year.⁵ Further, we find that PAS-23 complies with all Commission technical requirements. We note that the 11.45-11.7 GHz frequency band in which PanAmSat proposes to operate is allocated to the terrestrial and Fixed-Satellite Service ("FSS") on a co-primary basis.⁶ FSS operations in this band, however, are limited to international service.⁷

to provide substitute capacity on an interim basis in the event of a launch or in-orbit failure of another satellite, provide service on a preemptible basis, or provide service on its functioning transponders on an interim basis at an orbital location where PanAmSat intends to launch and operate a new satellite.

⁴ See *Licensing Space Stations in the Domestic Fixed-Satellite Service*, 58 R.R.2d (P&F) 1267, 1272-3 (1985) (1985 Orbit Assignment Order).

⁵ An applicant relying on internal financing must submit a balance sheet documenting current assets and operating income sufficient to cover its costs. Current assets -- which include cash, inventory, and accounts receivable -- provide a general measure of a company's ability to raise funds on the basis of its on-going operations. See 47 C.F.R. § 25.114(c)(13); 1985 Orbit Assignment Order at 1272.

⁶ See 47 C.F.R. § 25.208(b). Allocation of a given frequency band for a particular service on a primary basis entitles operators to protection against harmful interference from stations of "secondary" services. Further, secondary services cannot claim protection from harmful interference caused by stations of a primary service. See 47 C.F.R. §§ 2.104(d) and 2.105(c).

⁷ Use of the band by the FSS domestically in the United States is subject to certain restrictions. Specifically, Non-Government footnote NG104 to the U.S. Table of Frequency Allocations states that the use of the bands 10.7-11.7 GHz in the fixed-satellite service is limited to international systems, i.e. "other than domestic systems." The Commission interpreted this language to mean that U.S.-licensed systems may use the 10.7-11.7 GHz band to provide international service only. See PanAmSat Licensee Corp., DA 99-948 (released May 18, 1999).

5. Grant of PanAmSat's application will serve the public interest. The replacement PAS-23 satellite will ensure continuity of service and provide increased service reliability for PanAmSat's C- and Ku-band customers that have relied on use of the PAS-9 satellite at 58° W.L.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that PanAmSat's application, File No. SAT-LOA-19990812-00081 IS GRANTED and PanAmSat is authorized to launch and operate its PAS-23 satellite at 58° W.L. in accordance with the terms, conditions, and technical specifications set forth in its application.

7. IT IS FURTHER ORDERED that, PanAmSat shall prepare the necessary information, as may be required, for submission to the ITU to initiate and complete the advance publication, international coordination, and notification process of this space station in accordance with the ITU Radio Regulations. We also note that no protection from interference caused by radio stations authorized by other administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments of other administrations. *See* 47 C.F.R. § 25.111(b).

8. IT IS FURTHER ORDERED that PanAmSat is obliged to comply with the applicable laws, regulations, rules, and licensing procedures in every country it proposes to serve.

9. IT IS FURTHER ORDERED that the license term for the PAS-23 satellite is ten years and will begin to run on the date the licensee certifies to the Commission that the satellite has been successfully placed into orbit and its operation fully conforms to the terms and conditions of this authorization.

10. PanAmSat is afforded thirty days from the date of release of this order and authorization to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.

11. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the release of this order (see 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

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